



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

BCS/173056

PRELIMINARY RECITALS

Pursuant to a petition filed March 25, 2016, under Wis. Stat. § 49.45(5)(a), to review a decision by the Milwaukee Enrollment Services in regard to Medical Assistance (MA), a hearing was scheduled on April 21, 2016, at Milwaukee, Wisconsin. A dismissal order was issued by DHA on April 22, 2016 based on the Petitioner's failure to appear for the scheduled hearing. On May 19, 2016, the Petitioner requested a re-hearing. On May 27, 2016, DHA granted the Petitioner's request for a rehearing. A hearing was held on June 15, 2016.

The issue for determination is whether the agency properly determined the Petitioner was not eligible for BC+ coverage for September, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

█
█

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner was enrolled in BadgerCare+ (BC+) effective January 1, 2015 with no monthly premium.
3. On May 27, 2015, the Petitioner contacted the agency and reported that she was employed at [REDACTED]. On May 28, 2015, the agency issued a Notice of Proof Needed to the Petitioner informing her that she must provide verification of her employment and income at [REDACTED]. The due date for the requested information was June 8, 2015.
4. On June 26, 2015, the agency issued a Notice of Decision to the Petitioner informing her BC+ benefits would end effective August 1, 2015 due to failure to provide requested verifications. The notice also informed her that if she wanted to appeal this determination, she must file a request for a hearing no later than September 16, 2015 with the Division of Hearings and Appeals.
5. On September 3, 2015, Petitioner contacted the agency to complete a healthcare renewal. Petitioner reported she was still employed at [REDACTED]. The case was pended for verification. On September 4, 2015, the agency issued a Notice of Proof Needed requesting verification of employment and income with [REDACTED]. The due date for the information was October 5, 2015.
6. On September 15, 2015, the Petitioner contacted the agency to inquire whether verifications had been received. The Petitioner was advised the agency had not received any verifications.
7. On September 23, 2015, the agency received an employer statement from [REDACTED]. [REDACTED] reported the Petitioner worked 40 hours/week @ \$15.20/hour.
8. On September 24, 2015, the agency issued a Notice of Decision to the Petitioner informing her BC+ benefits would end effective September 1, 2015 because her income was over the income limit. This was based on the agency determining her gross income was 40 hours/week @ \$15.20 = \$608/week (\$2,432/month). The notice also informed the Petitioner of the right to appeal by filing a request for hearing by November 9, 2015.
9. On October 2, 2015, the Petitioner contacted the agency to inquire whether verifications were received. She reported that she does not work 40 hours/week with [REDACTED], that she only works 2 hours/week. The case was pended for further verification. On October 5, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of employment and income with [REDACTED]. The due date for the information was October 14, 2015.
10. On January 14, 2016, the Petitioner contacted the agency to inquire about her healthcare benefits. The case comments state as follows: "[Petitioner] called to inquire about HC. Case left pending half open and half closed. Reactivated. NV'd. Closed case. Repended employment."
11. On January 15, 2016, the agency issued a Notice of Proof Needed to the Petitioner requesting employment and income verification from [REDACTED]. The due date for the information was January 25, 2016.
12. On January 15, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her application for healthcare benefits of January 14, 2016 was denied effective January 1, 2016 due to failure to provide verification.
13. On January 28, 2016, the Petitioner requested an extension for providing verifications. The agency granted the extension.
14. On January 29, 2016, the Petitioner submitted a statement from [REDACTED] showing her actual wages for December and January, 2016.
15. On February 9, 2016, the agency updated the Petitioner's case based on the pay statement and income information from December, 2015.

16. On March 3, 2016, the Petitioner provided actual wage information from [REDACTED] for the period of January 2, 2015 – February 12, 2016. The agency determined the Petitioner was eligible for BC+ benefits and granted a three month backdate request for October, November and December, 2015.

DISCUSSION

All Medicaid applications received by an agency must be processed and eligibility approved or denied as soon as possible but no later than 30 calendar days from when the agency receives the application. This includes issuing a Notice of Decision. Medicaid Eligibility Handbook (MEH), § 2.7.1. The agency may extend the time frame to allow an applicant to produce verifications. Id.

If less than a calendar month has passed since a member's enrollment has been terminated, the applicant can provide the necessary information to reopen Medicaid without filing a new application. If more than a calendar month has passed since a member's enrollment was terminated, the applicant must file a new application to reopen his or her Medicaid. MEH, § 2.9.1.

Medicaid eligibility can be backdated up to three months prior to the month of application. MEH, § 2.8.2.

In this case, the Petitioner's MA benefits were terminated effective September 1, 2015 when the agency determined her income exceeding program limits based on the [REDACTED] employer statement. On October 2, 2015, the Petitioner contacted the agency to inquire about the status of her benefits. She informed the agency that the income from [REDACTED] was not reported or calculated correctly. She was informed at that time that the agency would re-pond the case for verification of income. The agency subsequently failed to take any action on the Petitioner's case until January, 2016 when the Petitioner again contacted the agency to inquire about the status of her case.

At the hearing, the agency argues that the Petitioner's benefits were terminated effective September 1, 2015 due to income exceeding the program limits. However, the agency's own case comments contradict this. The Petitioner's case was "half open and half closed." There is no such status. The agency failed to take any action after pending the Petitioner's case on October 2, 2015. If, as the agency argues, the Petitioner's case closed effective September 1, 2015, then the Petitioner's request on October 2, 2015 should have been considered as a new request for benefits and the agency was required to approve or deny her request for benefits within 30 days. No notice was provided to the Petitioner approving or denying the benefits based on her October 2, 2015 request. When the Petitioner contacted the agency in January, 2016 and the agency NV'd the case, it notified her only that benefits were denied effective January 1, 2016 based on failure to verify. There was inadequate notice to the Petitioner following her request for benefits on October 2, 2015 regarding the status of her request. If the agency had properly processed the request, the Petitioner's request for benefits could have been backdated three months from October 2, 2015.

The evidence produced by the Petitioner of her [REDACTED] wages demonstrate that she was financially eligible in September, 2015 with total income of approximately \$100 for the month. Therefore, I conclude that the Petitioner's request on October 2, 2015 was a request for BC+ benefits and the agency failed to provide notice to the Petitioner approving or denying the benefits. The information subsequently produced by the Petitioner demonstrates she was eligible for benefits and she was eligible to request a backdate of three months. Therefore, I conclude the agency should revise its records to show that the Petitioner was eligible for BC+ benefits for September, 2015. If the Petitioner has claims for services in September, 2015, she must resubmit those claims or advise her providers to re-submit the claims for review.

CONCLUSIONS OF LAW

The Petitioner is eligible for BC+ for September, 2015.

THEREFORE, it is

ORDERED

That this matter is remanded to the agency to take all administrative steps necessary to revise its records to show that the Petitioner was eligible for BC+ for September, 2015. These actions shall be completed within 10 days of the date of this decision.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 29th day of June, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 29, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability